

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

MARTIN MARIETTA MATERIALS, INC.,	:	
	:	
Plaintiff,	:	
	:	Case No.5:08-cv-173(CAR)
vs.	:	
	:	
C. T. HARRIS, INC., et al.,	:	
	:	
Defendants.	:	

RULES 16 AND 26 ORDER

TO: COUNSEL (OR PARTIES IF UNREPRESENTED BY COUNSEL):

(NOTE: THIS ORDER, AND THE ATTACHED SCHEDULING ORDER FORM, MUST BE CAREFULLY READ. THIS ORDER, AND THE ATTACHED SCHEDULING ORDER FORM, ARE AMENDED FROM TIME TO TIME. THIS DOCUMENT INCLUDES THE LATEST REVISIONS.)

Your attention is directed to Rules 16 and 26 of the Federal Rules of Civil Procedure and to this Court's local rules, a copy of which can be obtained from our clerk's office. **Counsel should be careful to satisfy all the requirements of the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Local Rules during the course of this litigation.**

Rules 16(b) and 26(f) require the parties to confer, develop a proposed discovery plan, and submit a report to the presiding judge. A scheduling order must then be entered.

You are directed to confer within 30 days of the date of this Order to discuss the contents and form of the Proposed Scheduling/Discovery Order.

A joint report in the form of a single proposed scheduling order is due for this case and must be filed with the Court no later than **July 27, 2009b**. If the parties cannot agree, the proposed order shall state their differences and specify their respective positions. A party who cannot gain the cooperation of the other party in preparing the proposed order should advise the Court prior to the due date of the proposed order of the other party's failure to cooperate. **Failure to comply with discovery or with ANY Order of the Court, may result in dismissal of the case, default judgment, or other sanctions.**

A proposed scheduling order shall include suggested time limits for Rule 16(b), items (1) through (3); the name and address of every witness to be deposed, including the proposed time, date, and place for each deposition; the estimated cost of all discovery, including attorney's fees; the name, address, e-mail address, telephone and facsimile numbers of lead counsel for each party; the date the complaint was filed and the date the complaint was answered. The proposed scheduling order may also include such other matters as the parties deem appropriate in the circumstances of the case. **Below the signatures of counsel the proposed order should include a date line and a signature line for the Court.**

It is the Court's expectation that absent good cause shown all discovery will be completed within six months after the filing of responsive pleadings or a motion staying filing of responsive pleadings. **This Court schedules a scheduling/discovery conference approximately two months prior to the close of discovery. PLEASE NOTE THE DOCKET TEXT OF THE NOTICE OF ELECTRONIC FILING (NEF) THAT ACCOMPANIES THIS ORDER SETTING FORTH THE DATE AND TIME OF THIS SCHEDULING/DISCOVERY CONFERENCE.** During the conference, you will be

asked to give a report on the status of discovery, including what depositions have been taken and what depositions need to be taken. You should also be ready to report on any expert issues. If the parties believe a greater discovery time is necessitated, state why in the proposed order and leave of Court must be obtained. The parties shall be under a continuing duty to supplement all disclosures and responses in accordance with Local Rule 26(e).

While written motions to compel discovery may be properly filed, the Court requests that the parties refrain from filing such motions, and instead contact Lee Anne Purvis, Courtroom Deputy (478-752-0739), to schedule a telephone conference to discuss such matters.

Any party who desires to use the testimony of an expert witness will be required to designate the expert according to the following schedule, so that the expert will be identified sufficiently early in the discovery period to give the opposing party the opportunity to depose the expert. A plaintiff desiring to use the testimony of an expert must disclose the identity of the expert within 90 days after the filing of the last answer of the defendants named in the original complaint. A defendant desiring to use the testimony of an expert must disclose the identity of the expert within 120 days after the filing of the last answer of the defendants named in the original complaint. In the event a defendant designates an expert where plaintiff has not previously designated an expert, plaintiff shall have an additional 30 days to designate a rebuttal expert witness. Any disclosure of an expert witness must be accompanied by a written report prepared and signed by the expert in accordance with the requirements of Rule 26(a)(2)(B). The provisions of this order concerning the identification of expert witnesses may not be changed by the Joint Scheduling/Discovery Order submitted by the parties.

All dispositive motions will be filed within 45 days of the close of discovery and will not exceed 20 pages unless otherwise ordered by the Court. **However, in the event that any party intends to file a motion for summary judgment, please contact Lee Anne Purvis, Courtroom Deputy (478-752-0739), for scheduling purposes related to the motion.** Pursuant to Local Rule 7, respondent shall have 20 days and no more than 20 pages to respond to the dispositive motion and movant shall have 10 days thereafter and no more than 10 pages to file a reply.

Do not send courtesy copies of letters, motions or briefs to the Court.

Local Rule 34 limits production requests to 10 per party; and Local Rule 36 limits requests for admission to 15 per party.

A copy of the proposed scheduling order must be served upon each party.

The proposed scheduling order will be carefully considered and, subject to such changes as may be deemed appropriate, either adopted by the Court or discussed with counsel in person or by conference call.

The parties are directed to notify Lee Anne Purvis, Courtroom Deputy (478-752-0739) immediately upon settlement of this case.

SO ORDERED, this the 12th day of June, 2009.

S/ C. Ashley Royal
C. ASHLEY ROYAL, Judge
United States District Court